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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,506	06/21/2000	Thomas G. Lapcevic	02-640-US	6942

7590 07/24/2006

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EXAMINER	
LASTRA, DANIEL	
ART UNIT	**PAPER NUMBER**
3622	

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/598,506	LAPCEVIC, THOMAS G.	
	Examiner	Art Unit	
	DANIEL LASTRA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 May 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-19 have been examined. Application 09/598,506 has a filing date 06/21/2000.

Response to Amendment

2. In response to Non Final Rejection filed 02/06/2006, the Applicant filed an Amendment on 05/06/2006, which amended claims 1, 8 and 14. Applicant's amendment overcame the claims 3 and 4 objection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

A. Claims 1, 8 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Said claims recite "the entertainment content provided in the absence of remuneration beyond the advertising content". Nowhere, in Applicant's specification this limitation is recited.

B. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 8 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claims recite "the entertainment content provided in the absence of remuneration beyond the advertising content". For purpose of art rejection, said limitation would be interpreted as playing entertainment content in a remote facility.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dejaeger (US 6,456,981) in view of Stern (US 6,553,404).

As per claims 1 and 8, Dejaeger teaches:

A computer-assisted method of establishing a brand presence in a facility, comprising:

accessing, by remote facility personnel, a central network computer housed in a central facility having a playlist that controls the playback of audio and video broadcasting within the facility (see Dejaeger column 1, line 23 – column 2, line 65; column 15, lines 5-16), the playlist comprising entertainment and advertisement content

(see column 21, lines 23-42), but fails to teach *the entertainment content provided in the absence of remuneration beyond the advertising content.* However, Stern teaches a system that delivers entertainment (i.e. music) and advertisement content to commercial outlets from a central system (see Stern col 3, lines 1-20; col 3, lines 55-65; col 4, lines 8-27).

entering on the playlist, by remote facility personnel, identifiers of advertisement content related to the facility (see Dejaeger column 15, lines 5-16)

and the central computer network accessing the playlist entered by the remote facility personnel (see Dejaeger column 15, lines 5-17) but fails to teach and pushing to the remote facility via the Internet the playlist. Dejaeger does not teach an Internet connection to the central network computer from a remote facility. However, Stern teaches an Internet connection between an advertisement server and commercial sales outlets (see Stern column 10, lines 45-56). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dejaeger would allow retailers to connect via the Internet to a central server, which would control the delivery of advertisements and entertainment content in the retailers' facilities, as taught by Stern. Using the Internet to connect to a central server would avoid the need to use a proprietary software.

As per claims 6, 12, 14 and 18, Dejaeger teaches:

The method of claim 1, but fails to teach further comprising pushing to the remote facility, via a medium selected from the group consisting of the Internet, satellite links, and combinations thereof, the playlist, which playlist includes advertisement related to

the remote facility. However, Stern teaches pushing advertisements to a remote facility from a central server via the Internet and satellite link (see Stern column 10, lines 45-62). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dejaeger would allow retailers to connect via the Internet or satellite link to a central server, which would control the delivery of advertisements in the retailers facilities, as taught by Stern. Using the Internet to connect to a central server would avoid the need to use a proprietary software.

As per claims 2, 9 and 15, Dejaeger teaches:

The method of claim 1, further comprising selecting, by remote facility personnel, a supplemental advertisement campaign (see column 1, lines 23-67; column 20, lines 15-54; column 10, lines 14-55).

As per claim 3, Dejaeger teaches:

The method of claim 2, wherein the supplemental advertisement campaign is selected from the group consisting of a print campaign, (see column 1, lines 23-67; column 24, lines 7-30). Dejaeger fails to teach an email and combinations thereof. However, Stern teaches a system that delivers advertisements to retail locations via the Internet (see Stern column 10, lines 57-63). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dejaeger would transmit advertisements via the Internet or electronic mail to retail locations, as taught by Stern. This feature would use the Internet to delivering messages to customers which would avoid the need to use a proprietary software.

As per claims 4, 10 and 16, Dejaeger teaches:

The method of claim 1, further comprising reserving, by an organization affiliated with the remote facility, certain time slots for advertisements relating to the organization (see Dejaeger column 15, lines 4-16; column 12, lines 40-50). Dejaeger does not teach an Internet connection to a remote facility. However, Stern teaches an Internet connection between an advertisement server and commercial sales outlets (see Stern column 10, lines 45-56). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dejaeger would allow retailers to connect via the Internet to a central server, which would control the delivery of advertisements in the retailers' facilities, as taught by Stern. Using the Internet to connect to a central server would avoid the need to use a proprietary software.

As per claims 5, 11 and 17, Dejaeger teaches:

The method of claim 1, wherein entering on the playlist includes entering on the playlist, by remote facility personnel, identifiers of advertisements to be played in a portion of the remote facility (see column 15, lines 5-16). Dejaeger does not teach an Internet connection to a remote facility. However, Stern teaches an Internet connection between an advertisement server and commercial sales outlets (see Stern column 10, lines 45-56). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dejaeger would allow retailers to connect via the Internet to a central server, which would control the delivery of advertisements in the retailers' facilities, as taught by Stern. Using the Internet to connect to a central server would avoid the need to use a proprietary software.

As per claims 7, 13 and 19, Dejaeger teaches:

The method of claim 1, but fails to teach further wherein the step of accessing, by remote facility personnel, the central network computer further comprises accessing, via the Internet, the central network computer. However, Stern teaches an Internet connection between an advertisement server and commercial sales outlets (see Stern column 10, lines 45-56). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dejaeger would allow retailers to connect via the Internet to a central server, which would control the delivery of advertisements in the retailers' facilities, as taught by Stern. Using the Internet to connect to a central server would avoid the need to use a proprietary software.

Response to Arguments

5. Applicant's arguments filed 05/06/2006 have been fully considered but they are not persuasive. The Applicant amended the claims to add that entertainment content provided is in the absence of remuneration beyond the advertising content. The Examiner answers that Applicant's specification is silent about said added limitation. Therefore, for purpose of art rejection, said limitation would be interpreted as playing entertainment content, such as music in a remote facility, where Stern teaches said limitation.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
July 17, 2006

RAOUL ALVAREZ
PRIMARY EXAMINER